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FILE NO: 74096.2

April 12, 2010

VIA OVERNIGHT MAIL

Mr. Peter Magolske
U.S. Environmental Protection Agency
Office of Compliance and Enforcement, M/S OCE-127
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Mr. Brian Monson
Idaho Department of Environmental Quality
1410 North Hilton Street
Boise, ID 83706

Re: Quarterly Progress Report—Response to Paragraph No. 72; and
Certification of Duly Authorized Representative—Paragraph No. 75
Administrative Order on Consent for Nu-West CPO Facility
Docket No. RCRA-10-2009-0186

Dear Mr. Magolske and Mr. Monson:

In accordance with Paragraph 72 of the above-referenced Administrative Order on Consent ("Consent Order"), this letter serves as Nu-West Industries, Inc.'s ("Nu-West") quarterly progress report demonstrating that all activities associated with the Consent Order are being carried out.

By letter dated February 8, 2010, the U.S. Environmental Protection Agency ("EPA") provided to Nu-West its comments to the September 25, 2009 Sampling and Analysis Work Plan for Site Characterization ("Work Plan") prepared by WSP Environment and Energy ("WSP") and requested that Nu-West incorporate EPA's comments into a revised Work Plan within 30 days of its receipt of such letter. In accordance with Paragraph 69 of the Consent Order, by letter dated February 18, 2010, Nu-West requested an extension until 90 days from its receipt of EPA's February 8 letter to incorporate the agency's comments therein and submit a revised Work Plan.

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Mr. Peter Magolske
Mr. Brian Monson
Page 2

On February 22, 2010, James Cagle of Nu-West and Peter Magolske discussed by telephone Nu-West's request for such an extension. By letter dated February 25, 2010, EPA approved Nu-West's request for an extension and noted that the new deadline for Nu-West to submit a revised Work Plan to EPA is May 10, 2010. No other activities related to the Consent Order have been carried out during this time period. In accordance with Paragraph Nos. 75 and 76 of the Consent Order, the certification of a duly authorized representative is included as an attachment to this letter.

Under Paragraph 75 of the Consent Order, a person is a "duly authorized representative" if: (a) the authorization is made in writing; (b) the authorization specifies either an individual or person having responsibility for overall operation of the regulated facility or activity; and (c) the written authorization is submitted to the Project Coordinator designated under the Consent Order. Nu-West previously provided to EPA certification that Erik Vettergren is a duly authorized representative. Enclosed as an attachment to this letter is certification that James Cagle, Risk-Manager-EHS for Nu-West, is also a duly authorized representative as defined in Paragraph 75 of the Consent Order.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to be "P. Scott Burton", with a long horizontal line extending to the right.

P. Scott Burton

Enclosure

cc: James Cagle (w/encl.)

CERTIFICATION


I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

Date: _____


Erik Vettergren
CPO Plant Manager
4.5.10

NU-WEST INDUSTRIES, INC.

CERTIFICATION OF DULY AUTHORIZED REPRESENTATIVE

I, Erik Vettergren, a duly appointed officer of Nu-West Industries, Inc. ("Nu-West"), certify that James Cagle, Risk-Manager-EHS, is a "duly authorized representative" as defined in Paragraph 75 of the Administrative Order on Consent ("Consent Order") executed by Nu-West and the U.S. Environmental Protection Agency ("EPA") pursuant to Section 3013 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6934 (EPA Docket No. RCRA-10-2009-0186). James Cagle has overall responsibility for environmental, health and safety matters at Nu-West's Conda Phosphate Operations ("CPO") facility located near Soda Springs, Idaho, which is the subject of the Consent Order, is designated as a Project Coordinator pursuant to Paragraph 84 of the Consent Order, and is authorized to certify documents submitted to EPA by Nu-West in accordance with the Consent Order.

Executed this 5th day of April 2010 in Soda Springs, Idaho.



Erik Vettergren
CPO Plant Manager